

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AMERICAN INSTITUTE OF PHYSICS, AND
BLACKWELL PUBLISHING, LTD.

Plaintiffs,

V.

WINSTEAD PC AND JOHN DOES NOS. 1-10,

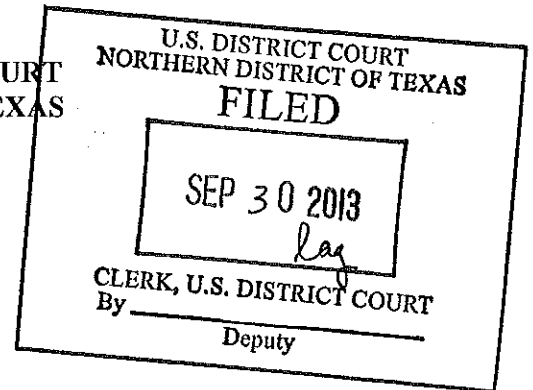
Defendants,

and

THE UNITED STATES PATENT AND
TRADEMARK OFFICE,

Intervening Defendant and Counterclaim Plaintiff.

CIVIL ACTION NO.
3:12-CV-1230-M



ORDER


Before the Court is the Motion to Dismiss Plaintiffs' Amended Complaint, filed by Defendants Winstead PC and John Does Nos. 1–10 (collectively "Winstead" or "Defendants") [Docket Entry #56]. John Does Nos. 1-10 are partners, associates or other employees of Winstead, whose identities are not known to Plaintiffs. Pursuant to Federal Rule of Civil Procedure 12(d), the Court converted the Motion to Dismiss to a Motion for Summary Judgment during the hearing held on May 22, 2013. After considering the parties' arguments, the factual record developed through limited discovery, and applicable law, the Court **GRANTS** Defendants' Motion for Summary Judgment.

The USPTO's Motion for Partial Summary Judgment [Docket Entry #60] is **DENIED as moot**. Plaintiffs' Motion to Dismiss the Counterclaim of the Intervening Defendant [Docket Entry #75] is **DENIED as moot**.

A Memorandum Opinion and Judgment will issue shortly.

SO ORDERED.

September 30, 2013.



BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS